

Before the
FEDERAL COMMUNICATIONS COMMISSION DA 96-1680
Washington, D.C. 20554

In the Matter of)	MM Docket No. 96-210
)	
Twenty-One Sound Communications, Inc.)	
)	
Licensee of Station KFPS(AM))	
Salem, Missouri)	
)	
Order to Show Cause Why the)	
License for Station KFPS(AM))	
Salem, Missouri Should Not)	
be Revoked)	

**ORDER TO SHOW CAUSE
AND
HEARING DESIGNATION ORDER**

Adopted: October 2, 1996

Released: October 11, 1996

By the Assistant Chief, Audio Services Division:

1. The Assistant Chief, Audio Services Division, Mass Media Bureau, has before him for consideration: (a) a license held by Twenty-One Sound Communications, Inc. ("Twenty-One") for Station KFPS(AM), Salem, Missouri, and (b) the results of an investigation into KFPS(AM)'s silent status.¹

2. The Commission's records indicate that KFPS(AM) has been off the air since March 1, 1993, and that the special temporary authority permitting the station to remain silent expired August 9, 1996.² The licensee apparently has been attempting to locate a new tower site, due to a dispute with the property owners where the tower is located. In its last request

¹ The Mass Media Bureau has been delegated authority to issue and release Show Cause Orders in cases involving silent broadcast stations. See Debrine Communications, Inc., 7 FCC Rcd 2118 (1992).

² KFPS(AM)'s license expires on February 1, 1997 (File No. BR-891002VR, granted June 22, 1990).

for authority to remain silent, dated January 2, 1996, Twenty-One indicated that some progress had been made in site relocation, but that a transaction concerning the real estate had not been finalized. On February 9, 1996, the staff granted a six-month extension of the station's silence authorization to allow Twenty-One time to complete the transaction and file a modification of construction permit application. However, Commission records reveal that a modification of construction permit application has not been filed. Further, the licensee has neither notified the Commission that broadcast operations have resumed nor requested further extension of its special temporary authority. Thus, KFPS(AM) has been off-air for over three years and presently is not authorized to remain silent. Furthermore, Twenty-One has not demonstrated that its failure to resume operations was for causes beyond its control. Consequently, Twenty-One is in apparent violation of Sections 73.1740(a)(4)³ and 73.1750⁴ of the Commission's Rules.

3. Accordingly, IT IS ORDERED, That pursuant to Section 312(a)(3) and (4) of the Communications Act of 1934, as amended, Twenty-One Sound Communications, Inc. IS DIRECTED TO SHOW CAUSE why the license for Station KFPS(AM) should not be REVOKED, at a hearing to be held at a time and location specified in a subsequent Order, upon the following issues:

(a) To determine whether Twenty-One Sound Communications,

³ Section 73.1740(a)(4) provides:

"In the event that causes beyond the control of a licensee make it impossible to adhere to the operating schedule of this section or to continue operating, the station may limit or discontinue operation for a period of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC in Washington, D.C. not later than the 10th day of limited or discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30 day period, the licensee will so notify the FCC of this date. If the causes beyond the control the licensee make it impossible to comply with the allowed period, an informal written request shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary."

⁴ Section 73.1750 provides:

"The licensee of each station shall notify the FCC in Washington, D.C. of permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the FCC, Washington, D.C. for cancellation."

Inc. has the capability and intent to expeditiously resume broadcast operations of KFPS(AM) consistent with the Commission's Rules.

(b) To determine whether Twenty-One Sound Communications, Inc. has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Twenty-One Sound Communications, Inc. is qualified to be and remain the licensee of Station KFPS(AM).

4. IT IS FURTHER ORDERED, That, pursuant to Section 312(d) of the Communications Act of 1934, as amended, both the BURDEN OF PROCEEDING with the introduction of evidence and the BURDEN OF PROOF with respect to the issues specified above shall be upon the MASS MEDIA BUREAU.

5. IT IS FURTHER ORDERED, That to inform Twenty-One Sound Communications, Inc. of the issues specified against it, a copy of this Order will be mailed by certified mail/return receipt requested to:

Twenty-One Sound Communications, Inc.
3418 Douglas Road
Florissant, Missouri 63034

6. IT IS FURTHER ORDERED, That to avail itself of the opportunity to be heard, the licensee, pursuant to Section 1.91(c) of the Commission's Rules, SHALL FILE with the Commission within thirty (30) days of the receipt of this Order a WRITTEN APPEARANCE stating that he will appear at the hearing and present evidence on the matters specified in the Order. If the licensee fails to file a written appearance within the time specified, or within

thirty (30) days of receipt of this Order the licensee files a written statement expressly waiving its right to a hearing, the licensee's right to a hearing SHALL BE DEEMED TO BE WAIVED. In the event the right to a hearing is waived, the Presiding Judge, or the Chief Administrative Law Judge if no Presiding Judge has been designated, SHALL TERMINATE the hearing proceeding and CERTIFY this case to the Commission in the regular course of business, and an appropriate Order shall be entered.⁵

FEDERAL COMMUNICATIONS COMMISSION

Stuart B. Bedell
Assistant Chief, Audio Services Division
Mass Media Bureau

⁵ The Mass Media Bureau has been delegated authority to issue Revocation Orders in cases involving silent broadcast stations. See Radio Northwest Broadcasting Company, 4 FCC Rcd 596, n.3 (1989).